IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20270 of 2004

Between:

A.M. Swamy, S/o. Narasappa, Hindu, Conductor,
E.No. 402059, R/o. D.No. 9A/33, Gareebnagar, Kalyandurg, Anantapur District.

..... PETITIONER

AND

1 The Depot Manager,

A.P.S.R.T.C. Rayadurg Depot,

Rayadurg, Ananthapur District.
2 The Deputy Chief Traffic Manager,

A.P.S.R.T.C. Anantapur Region,
Anantapur, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ, declaring the proceedings No. 02/95(46)/96-RDG dated 10-4-1997 of the 1st respondent and Proceedings No. ST/19(387)/98, DY.CTM.A. dated 9-2-1999 of the 2nd respondent as illegal, arbitrary in violation of principles of natural justice and in violation of ART.14 and 21 of the constitution India and consequently direct the respondents to add one increment to the pay of the petitioner.

Counsel for the Petitioner: Mr. S.SURENDRA KUMAR

Counsel for the Respondents: Mr. P.VINAYAKA SWAMY

The Court at the admission stage made the following ORDER:

The petitioner is working as a Conductor in the respondent- Corporation. A charge memo was issued to him for cash and ticket irregularities on 30-07-1996. The petitioner submitted his explanation. The grievance of the petitioner is that the respondent without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order reducing the present basic pay by one incremental stage for a period of one year, which shall have the effect on future increments. The petitioner preferred an appeal before the second respondent challenging the order of the first respondent, and it was rejected on 09-02-1999. The petitioner, therefore, approached this Court through this writ petition to declare that the proceedings of the respondents dated 10-04-1997 and 09-02-1999 respectively, as illegal, arbitrary and violative of the principles of natural justice.

The petitioner contends that the punishment imposed on him is a major penalty. It cannot be imposed without conducting any enquiry. The first respondent without conducting any enquiry imposed the said punishment. Therefore, it amounts to violation of the rules as well as the principles of natural justice. The respondents did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be held that the first respondent failed to follow the procedure prescribed under the rules and regulations. Therefore, the impugned order dated 10-04-1997 is not sustainable under law. But the petitioner having received the adverse order from the 2nd respondent on 09-02-1999, kept quiet for more than four years. Therefore, there are some latches on the part of the petitioner also in approaching this court at the earliest time.

Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of stoppage of one increment with cumulative effect imposed on the petitioner into one of stoppage of one increment without cumulative effect.

The Writ Petition is accordingly disposed of.

_____ (Dr.G.Yethirajulu,J)

4th November, 2004.

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To

1 The Depot Manager,

A.P.S.R.T.C. Rayadurg Depot,

Rayadurg, Ananthapur District.

2 The Deputy Chief Traffic Manager,

A.P.S.R.T.C. Anantapur Region,
Anantapur, Anantapur District.

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